



Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-80-40
Regulation title	Fee-for-service providers: pharmacy.
Action title	2011 Pharmacy Reimbursement Change
Final agency action date	
Document preparation date	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services. The section of the State Plan for Medical Assistance that is affected by this action is Attachment 3.1-A&B (12 VAC 30-80-40).

Item 297.SSS of the 2011 Virginia Appropriations Act directs DMAS as follows:

“The Department of Medical Assistance services shall amend the State Plan for Medical Assistance Services to decrease the maximum reimbursement for pharmaceutical products to the Average Wholesale Price minus 13.1 percent. Such amendment shall become effective July 1, 2011.

Average Wholesale Price (AWP) Methodology

In this final exempt regulatory action the Department of Medical Assistance Services is modifying 12 VAC 30-80-40(8), which provides the estimated acquisition cost payment methodology for Medicaid fee-for-service pharmacy services. This modification is required to comply with Item 297.SSS of the 2011 Virginia Appropriations Act, which requires DMAS to amend the State Plan for Medical Assistance to remove the temporary status language of the AWP – 13.1% reduction and make it permanent.

DMAS currently uses Average Wholesale Price (AWP) as a pricing methodology for determining the estimated acquisition cost of pharmaceuticals. This estimated acquisition cost of pharmaceuticals is a significant factor in DMAS’ pharmacy methodology for paying pharmacy providers. It is found in 12 VAC 30-80-40 (Fee-for-service providers: pharmacy). The 2010 General Assembly required DMAS to temporarily put in place an AWP – 13.1% methodology, but that temporary reduction ended October 1, 2010, and the methodology returned to the previous AWP – 10.25%. The 2011 General Assembly requires DMAS to reinstitute AWP – 13.1% as a permanent methodology. The use of AWP – 13.1% is based upon a report by the federal Office of the Inspector General that focused on appropriate Medicaid cost-based marketplace drug pricing. The percentage subtracted from the AWP represents reduction in the amount paid to a pharmacy provider. The higher the percentage subtracted from the AWP (referred to as the AWP “discount”), the lower the payment to the pharmacy provider.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background document with the attached amended State Plan pages Fee-for-service providers: Pharmacy – 2011 Pharmacy Reimbursement Change (12 VAC 30-80-40) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

Date

Gregg A. Pane, M.D., MPA, Director

Dept. of Medical Assistance Services

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment, and will not decrease disposable family income.